

IN THE WATER COURT OF THE STATE OF MONTANA
LOWER MISSOURI DIVISION
WHITEWATER CREEK - BASIN (40K)
PRELIMINARY DECREE

CLAIMANT: Cody Math

CASE 40K-0725-R-2023
40K 213904-00

NOTICE OF FILING OF MASTER'S REPORT

This Master's Report was filed with the Montana Water Court on the above stamped date. Please review this report carefully.

You may file a written objection to this Master's Report within **10 days** of the stamped date if you disagree or find errors with the Master's findings of fact, conclusions of law, or recommendations. Rule 23, W.R.Adj.R. If the Master's Report was mailed to you, the Montana Rules of Civil Procedure allow an additional 3 days be added to the 10-day objection period. Rule 6(d), M.R.Civ.P. If you file an objection, you must serve a copy of the objection to all parties on the service list found at the end of the Master's Report. The original objection and a certificate of mailing to all parties on the service list must be filed with the Water Court.

If you do not file a timely objection, the Water Court will conclude that you agree with the content of this Master's Report.

MASTER'S REPORT

Claim 40K 213904-00 appeared in the Preliminary Decree for Whitewater Creek (Basin 40K) issued on March 7, 2019. The claim is owned by Cody Math, Robert L. Math, and Rena Math. The claim received issue remarks. Issue remarks are notations

identifying potential legal or factual issues with water rights and the Water Court is required to resolve these potential issues.

FINDINGS OF FACT

1. Claim 40K 213904-00 was decreed as a stock claim for a reservoir in the NENE of Section 26, T37N, R32E, Phillips County.
2. The claim was implied from stock claim 40K 184718-00.
3. Claim 40K 213904-00 was decreed with the following issue remark:
FILING FEE INSUFFICIENT TO COVER CLAIM. TOTAL AMOUNT DUE \$40.00
4. Claimant may pay the filing fee to the DNRC at:



5. Claim 40K 213904 also received the following issue remark:

THE CLAIMANT DID NOT IDENTIFY THE PERIOD OF DIVERSION FOR THIS RIGHT. A PERIOD OF DIVERSION HAS BEEN ADDED TO MATCH THE PERIOD OF USE. IF NO OBJECTIONS ARE RECEIVED TO THE PERIOD OF DIVERSION OR PERIOD OF USE, THOSE ELEMENTS WILL BE DECREED AS SHOWN ON THIS ABSTRACT AND THIS ISSUE REMARK WILL BE REMOVED FROM THIS CLAIM.
6. The issue remark identifies the period of diversion was modified as a result of DNRC review pursuant to Montana Water Court reexamination orders. The remark indicates that if no objections are filed, the elements of the claim will remain as they appear on the abstract and the remark will be removed. The claim did not receive objections.

PRINCIPLES OF LAW

1. When resolving issue remarks, the Water Court must weigh the information resulting in the issue remark and the issue remark against the claimed water right. Section 85-2-247(2), MCA. The factual evidence on which an issue remark is based must meet the preponderance of evidence standard before the prima facie status of a claim is

overcome. 43Q 200996-00 et al., Order Establishing Volume and Order Closing Case, at 18, June 8, 2015.

CONCLUSIONS OF LAW

1. Claimant has been notified of the insufficient filing fee.
2. The period of diversion issue remark provides notice of a change made after completion of the Temporary Preliminary Decree proceedings and prior to issuance of the Preliminary Decree. The remark does not raise unresolved issues that need to be addressed. No proceedings are required to resolve the remark.

RECOMMENDATION

1. The issue remarks should be removed from claim 40K 213904-00.

A post decree abstract of the water right claim reflecting the recommended changes is attached to this Report.

ELECTRONICALLY SIGNED AND DATED BELOW.

Service via USPS Mail

Cody Math
14963 N Forks Rd
Whitewater, MT 59544

POST DECREE
ABSTRACT OF WATER RIGHT CLAIM
WHITEWATER CREEK
BASIN 40K

Water Right Number: 40K 213904-00 STATEMENT OF CLAIM

Version: 3 -- POST DECREE

Status: ACTIVE

Owners: CODY MATH
14963 N FORKS RD
WHITEWATER, MT 59544

Priority Date: DECEMBER 31, 1956

Type of Historical Right: USE

Purpose (use): STOCK

Flow Rate: NO FLOW RATE HAS BEEN DECREED FOR THIS USE FROM THIS ONSTREAM RESERVOIR.

Volume: THIS RIGHT INCLUDES THE AMOUNT OF WATER CONSUMPTIVELY USED FOR STOCK WATERING PURPOSES AT THE RATE OF 30 GALLONS PER DAY PER ANIMAL UNIT. ANIMAL UNITS SHALL BE BASED ON REASONABLE CARRYING CAPACITY AND HISTORICAL USE OF THE AREA SERVICED BY THIS WATER SOURCE.

Source Name: UNNAMED TRIBUTARY OF DUNHAM COULEE

Source Type: SURFACE WATER

Point of Diversion and Means of Diversion:

<u>ID</u>	<u>Govt Lot</u>	<u>Qtr Sec</u>	<u>Sec</u>	<u>Twp</u>	<u>Rge</u>	<u>County</u>
1		NENE	26	37N	32E	PHILLIPS

Period of Diversion: JANUARY 1 TO DECEMBER 31

Diversion Means: DAM

Reservoir: ONSTREAM

<u>Govt Lot</u>	<u>Qtr Sec</u>	<u>Sec</u>	<u>Twp</u>	<u>Rge</u>	<u>County</u>
	NENE	26	37N	32E	PHILLIPS

Diversion to Reservoir: DIVERSION # 1

Period of Use: JANUARY 1 TO DECEMBER 31

Place of Use:

<u>ID</u>	<u>Acres</u>	<u>Govt Lot</u>	<u>Qtr Sec</u>	<u>Sec</u>	<u>Twp</u>	<u>Rge</u>	<u>County</u>
1			NENE	26	37N	32E	PHILLIPS

Remarks:

THIS IMPLIED CLAIM WAS AUTHORIZED BY THE WATER COURT BASED ON INFORMATION IN CLAIM NO. W184718-00.